

ORIGINAL

## IN THE SUPREME COURT OF THE STATE OF MONTANA

No.

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BARRY ALONZO HEATH,

Petitioner and Appellant,

v.

STATE OF MONTANA,

Respondent and Appellee.

FILED

NOV 23 2009

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

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**NOTICE OF APPEAL**

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Notice is hereby given that Barry Alonzo Heath, the Appellant above-named and who is the Petitioner in the cause of action filed in the Eighth Judicial District, in and for the County of Cascade, as Cause No. DV 07-165, hereby appeals to the Supreme Court of the State of Montana from the final judgment or order entered in such action on the 1st day of October, 2009.

**THE APPELLANT FURTHER CERTIFIES:**

1. That this appeal is not subject to the mediation process required by Mont. R. App. P. 7.
2. That this appeal is not an appeal from an order certified as final under Mont. R. Civ. P. 54(b). If this is such an appeal, a true copy of the District Court's certification order is attached hereto as Exhibit "A."

3. That the notice required by Mont. R. App. P. 27 will be given, within 11 days of the date hereof, to the Supreme Court and to the Montana Attorney General with respect to a challenge to the constitutionality of any act of the Montana Legislature if applicable to this appeal.

4. That all relevant transcripts of the proceedings in this cause have been ordered from the court reporter contemporaneously with the filing of this notice of appeal. If all available transcripts have not been ordered, that Appellant has complied with the provisions of Mont. R. App. P. 8(3) contemporaneously with the filing of this notice of appeal.

Respectfully submitted this 23<sup>rd</sup> day of November, 2009.

OFFICE OF THE STATE PUBLIC DEFENDER  
Appellate Defender Office  
139 N. Last Chance Gulch, 2nd Floor  
P.O. Box 200145  
Helena, MT 59620-0145

By: Jooslyn Hunt  
JOOSLYN HUNT  
Chief Appellate Defender

**CERTIFICATE OF SERVICE**

I hereby certify that I have filed a true and accurate copy of the foregoing Notice of Appeal with the Clerk of the Montana Supreme Court; and that I have served true and accurate copies of the foregoing Notice of Appeal upon the Clerk of the District Court, each attorney of record, and each party not represented by an attorney in the above-referenced District Court action, as follows:

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DATED: \_\_\_\_\_

11/23/09 Shirley Brade